

IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO(s). 3483 OF 2004

GHOUSE MOIDDIN alias BABASAB(Dead)
THROUGH LRS.

Appellant (s)

VERSUS

STATE OF KARNATAKA
AND OTHERS

Respondent(s)

O R D E R

1. Original Appellant Ghouse Moiddin alias Babasab, since dead, had filed L.R.R.P. No.6754 of 1989 under Section 121-A of the Karnataka Land Reforms Act (hereinafter referred to as 'the Act') before learned Single Judge of the High Court, against the order dated 21.11.1989 passed by the Land Reforms Appellate Authority, Dharwad (for short, 'Appellate Authority') allowing the appeal and setting aside the order passed by the Land Tribunal, Dharwad dated 31.12.1981. The Appellant's revision has been dismissed by learned Single Judge on 16.4.2003. It is against this judgment and order, unsuccessful Appellant through legal representatives is before us.

2. The dispute pertains to Survey Nos.107, 137, 138, 139
2

and 140. But from the order passed by learned Single Judge, it appears that Appellants had confined their claim only with regard to Survey Nos.107 and 137. The

order passed by the Appellate Authority shows that the

Appellant's claim was only with regard to Survey No.107. The finding in this regard reads as under:

"Out of all the Respondents contesting Respondent is the only Respondent as regards Sy.No.107." 5th

3. Before the Appellate Authority, Respondent No.3 had filed an application under Order XLI, Rule 27 of the Code of Civil Procedure with a prayer to take additional evidence on record. The said application was allowed. Provisions of the Act also grants liberty to the parties to file additional evidence on record at the appellate stage. Learned Single Judge has also recorded this finding that the parties were permitted to adduce additional evidence before the Appellate Authority.

4. Out of the documents so filed by the Respondents, one of the material document, which throws a light on the controversy with regard to possession of Survey No.107, is Exhibit A-1 executed by the original Appellant on 7.11.1977. It records that from the year 1969-70 till

3

end of March, 1978, the Appellant had taken an advance amount of Rs.700/- from Respondent Nos.3 and 4 at the rate of Rs.100/- per annum for allowing them to cultivate the land falling in Survey No.107. In the

said Exhibit A-1, there is a clear cut admission by the original Appellant that Respondents were in possession of the land falling in Survey No.107 even on the cut-off date i.e. 1.3.1974. Taking into consideration the recital of Exhibit A-1, the Appellate Authority came to the conclusion that from 1969 to March, 1978, the cut-off date falling in between, it was Appellant's own admission that Respondent Nos.3 and 4 were in possession.

5. The only contention advanced by Appellant before the Appellate Tribunal was that since the document is dated 7.11.1977, it cannot be looked into to find out the possession on cut-off date. But this argument has rightly been negated by the Tribunal.

6. At this stage, learned counsel for the Appellants argued that the said document was in fact not a genuine, was created and manufactured by Respondents with an intention to show their possession over Survey No.107. From the order passed by the Appellate Tribunal, we do not find that any such ground was at

4

all raised by the original Appellant. Since it has been marked as Exhibit A-1, it can safely be presumed that Appellant must have been given opportunity to go through the same and to note the recitals and to see his own signatures on the same. At that time, not having raised objections with regard to its genuineness and correctness, Appellant is stopped from challenging its correctness at this stage.

7. On the strength of the aforesaid document and other material evidence available on record, the Respondents' appeal was allowed by the Appellate Authority and it has been found that on the cut-off date Ghouse Moiddin alias Babasab, since dead, represented through LRs., was not in possession of the land shown in the order passed by the Appellate Authority.

8. Against this, the Appellant's revision before learned Single Judge was dismissed.

9. After having gone through the impugned order passed by the Appellate Authority as well as of the learned Single Judge of the High Court, we find that no case for interference has been made out. The appeal is devoid of merits and is hereby dismissed. Parties to bear their own costs.

5

.....J.
(DEEPAK VERMA)

.....J.
(DIPAK MISRA)

NEW DELHI,
MARCH 13, 2012.

6

ITEM NO.107

COURT NO.10

SECTION IVA

S U P R E M E C O U R T O F I N D I A
RECORD OF PROCEEDINGS

CIVIL APPEAL NO(s). 3483 OF 2004

GHOUSE MOIDDIN @ BABASAB(D) THR. LRS.

Appellant (s)

VERSUS

STATE OF KARNATAKA & ORS.

Respondent(s)

(With office report)

Date: 13/03/2012 This Appeal was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE DEEPAK VERMA

HON'BLE MR. JUSTICE DIPAK MISRA

For Appellant(s)

Mr. C.M. Angadi, Adv.

Mr. Rameshwar Prasad Goyal, Adv.

For Respondent(s)

Mr. V.N. Raghupathy, Adv.

[for the State of Karnataka]

Mr. D.P. Chaturvedi, Adv.

Mr. Ravi Panwar, Adv.

Mr. S.N. Bhat, Adv.

UPON hearing counsel the Court made the following

O R D E R

In terms of signed order, the appeal is
dismissed. Parties to bear their own costs.

(A.D. Sharma)

Court Master

(Signed Order is placed on the file)

(S.S.R. Krishna)

Court Master